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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,750	03/29/2004	Jeffrey D. Palmer	HE0224	2826

21495 7590 10/24/2006  
CORNING CABLE SYSTEMS LLC  
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EXAMINER

KIANNI, KAVEH C

ART UNIT	PAPER NUMBER
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2883

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/811,750

**Applicant(s)**

PALMER ET AL.

**Examiner**

Kianni C. Kaveh

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 17-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

KAVEH KIANNI  
PRIMARY EXAMINER

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's canceling of claims 10-16 and 25-28 in the amendment/response submitted on 8/14/06 is acknowledged.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2-9 and 18-14 respectively depend of the rejected claims 1 and 17 and therefore they are also rejected.

Claims 1 and 17 are ambiguous, since 'an assembly process' is not defined as what process and/or process for doing what and/or the steps involved in the process are not defined. Also the limitation 'field-installable' is not a certain/definite and/or positive limitation as whether fusion splice is defiantly and without uncertainty is installed.

Corrections are required.

#### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 and 17-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Barnes et al. (US 20050213890).

*The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.*

Regarding claim 1, 3, 17 and 19, Barnes teaches a field-installable fusion spliced fiber optic connector kit (shown in at least fig. 1; *note that also that the preamble not supported by the body of the claim does not have any patentable weight*) comprising:  
a ferrule block subassembly 10 comprising:  
a fiber optic stub 14; a ferrule 18, the ferrule having a longitudinal bore therethrough, wherein the fiber optic stub is held in the longitudinal bore and an end of the fiber optic stub extends beyond the ferrule 18; and  
a disposable ferrule handling block, the disposable ferrule handling block 20 being **adapted** for holding the ferrule during an assembly process for a fiber optic connector (this functional language limitation is not given patentable weight it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. it does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138; nonetheless, see fig. 1);  
a splice cover handling block subassembly comprising: a crimp body 132;

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a spring 24; a splice cover 26, the splice cover having a first end and a second end and a longitudinal passage extending from the first end to the second for housing a fusion splice of the fiber optic stub 14; and

a disposable splice cover handling block 20, wherein the disposable splice cover handling block 20 is **adapted** for holding the crimp body 26, the spring 24, and the splice cover 26 *during the assembly process* (this functional language limitation is not given patentable weight it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. it does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138); none the less shown in at least fig. 14 and see p. 0061);

and a container 16 for housing and protecting the ferrule block subassembly prior to the assembly process (shown in fig. 14) so that the end of the fiber optic stub that extends beyond the ferrule is not damaged prior to assembly of the fiber optic connector. (note that the above underlined limitations although taught by prior art, nonetheless, they are not given patentable weight since they merely contain functional language). the ferrule having an outer diameter of about 1.25 millimeters (shown in 7 item 69 being 5 mm, then ferrule size is about 2-2.5 mm).

Regarding claims 2-9 and 18-24, Barnes further teaches the disposable splice cover handling block having a first end and a second end, the second end of the disposable splice cover handling block having a plurality of resilient fingers that act as a stop for the first end of the splice cover (shown in fig. 14, the fingers, not numbered, positioned at the ends of the splice cover 26, act as a stop for the first end of the splice

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cover); connector housing 16; a connector housing and a trigger 142, wherein the trigger attaches to the connector housing 16; the ferrule being held by a first end of the disposable ferrule handling block so that the fiber optic stub extends therefrom (shown in at least fig. 14); the splice cover having at least one aperture for filling the longitudinal passageway (see 0050); the fiber optic connector being connected to a portion of a cable 12.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9 and 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Throckmorton et al. (US 20010002220).

Throckmorton Barnes teaches a field-installable fusion spliced fiber optic connector assembly (shown in at least fig. 2) comprising:

- a ferrule block subassembly comprising (shown in at least fig. 2):
  - a fiber optic stub (0036); a ferrule 12, the ferrule having a longitudinal bore therethrough, wherein the fiber optic stub is held in the longitudinal bore and an end of the fiber optic stub extends beyond the ferrule 12; and
  - a disposable ferrule handling block, the disposable ferrule handling block being **adapted** for holding the ferrule during an assembly process for fiber optic connector (this functional language limitation is not given patentable weight it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. it does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138; however, shown in at least fig. 2, item 52, see at least abstract));
- a splice cover handling block subassembly 24 comprising: a crimp body 36;
  - a spring 48; a splice cover 24ab, the splice cover having a first end and a second end and a longitudinal passage extending from the first end to the second for housing a fusion splice of the fiber optic stub \*shown in at least fig. 2 and 4); and a disposable splice cover handling block, wherein the disposable splice cover handling block 24 is **adapted** for holding the crimp body 26, the spring 48, and the splice cover 26 during the assembly process (during an assembly process for fiber optic connector shown in at least fig. 2, item splice cover handling block containing the above elements);

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and a container 54 for housing and protecting the ferrule block subassembly *prior to the assembly process* (shown in fig. 2, the functional language are not given patentable weight) so that the end of the fiber optic stub that extends beyond the ferrule is not damaged prior to assembly of the fiber optic connector. (note that the above underlined limitations although taught by prior art, nonetheless, they are not given patentable weight since they merely contain functional language).

However, Throckmorton does not explicitly state that the above assembly is a kit and that the ferrule having an outer diameter of about 1.25 millimeters. It is obvious/well-known to those of ordinary skill in the art when the invention was made that an assembly containing above optical/non-optical elements is known as kit, and it would have been obvious to a person of ordinary skill in the art when the invention was made to choose a ferrule that that would hold *conventionally* a fiber size of less than about 1 mm diameter fiber since such assembly would provide connectors for field installation since a change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Throckmorton further teaches the disposable splice cover handling block having a first end and a second end, the second end of the disposable splice cover handling block having a plurality of resilient fingers that act as a stop for the first end of the splice cover (shown in fig. 2, the fingers, not numbered, positioned at the ends of the splice cover act as a stop for the first end of the splice cover); connector housing 54; a connector housing and a trigger, wherein the trigger attaches to the connector housing (shown in fig. 1 and see 0062 and 0063); the ferrule



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being held by a first end of the disposable ferrule handling block so that the fiber optic stub extends therefrom (shown in at least fig. 2); the splice cover having at least one aperture in communication with the longitudinal passageway (see 0042); the fiber optic connector being connected to a portion of a cable 16.

*Previously cited Citation of Relevant Prior Art Prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In accordance with MPEP 707.05 the following references are pertinent in rejection of this application since they provide substantially the same information disclosure as this patent does. These references are: The following references teach at least the above independent claims*

Throckmorton et al.: 6379054 and 6173097

US 4553814 A Bahl; Andrew L. et al.

US 4233724 A Bowen; Terry P. et al.

US 20030231839 A1 Chen, Wenzong et al.

US 20050094945 A1 Danley, Jeff D. et al.

US 20040057676 A1 Doss, Donald G. et al.

US 20010019645 A1 Edwards, Bryan et al.

US 5367594 A Essert; Robert et al.

US 4752111 A Fisher; Jeffrey K.

US 5971624 A Giebel; Markus A. et al.

US 3904269 A Lebduska; Robert L. et al.

US 5748819 A Szentesi; Otto I. et al.

These references are cited herein to show the relevance of the apparatus/methods taught within these references as prior art.

***Response to Arguments and Amendment***

Applicant's argument filed on 8/14/06 have been fully considered but they are not persuasive.

Regarding applicant's arguments that Barnes et al. is not a prior art under USC 103 (c), the examiner as has explained above and admitted by the applicant is a prior art under USC 112 (e). Regarding applicant's arguments that Barnes et al. and Throckmorton do not teach the amended claimed limitations the examiner responds that the amended claims are under 35 USC 12, 2<sup>nd</sup> Parag. rejection and that the claims are now broader than the originally presented and that all limitations of the claimed inventions are taught at least by Barnes et al. and Throckmorton, as stated above.

***THIS ACTION IS MADE FINAL***

This action in response to applicant's amendment made FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no

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event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Cyrus Kianni whose telephone number is (571) 272-2417.

The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 6:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font, can be reached at (571) 272-2415.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306 (for formal communications intended for entry)

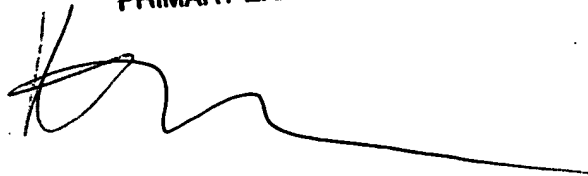
**or:**

Hand delivered responses should be brought to Crystal Plaza 4, 2021 South Clark Place, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956.

K. Cyrus Kianni  
Primary Patent Examiner  
Group Art Unit 2883

**KAVEH KIANNI  
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to be 'K. Kianni', is written over a horizontal line. The signature is stylized with a large initial 'K' and a long, sweeping tail.

October 17, 2006